

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4504 of 1988

with

SPECIAL CIVIL APPLICATION No 4520 of 1988

and

SPECIAL CIVIL APPLICATION No 4521 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

SAILESH R SHELAT JUNIOR CLERK

Versus

GUJARAT AGRI UNIVERSITY

Appearance:

In all the Special Civil Applications :

MR BP TANNA with MR NIKHIL KARIEL for Petitioner
MR JR NANAVATI for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/08/1999

ORAL JUDGEMENT

1. As in all these three special civil applications,

identical grounds have been raised and the respondents are also common and the petitioners are in the employment of the respondents, the same are being taken up for hearing together and are being disposed of by this common judgment.

2. It is not in dispute that the petitioners were given ad hoc and temporary appointment by the respondents as Junior Clerks. These their appointments were subject to the condition that they have to face the selection for the post for regularisation of their appointments. In the year 1979 and 1984 selection has been made for appointment on the post of Junior Clerk in which the petitioners applied but they could not be selected. They filed these petitions before this court as the respondents have given the notice of termination of their services w.e.f. 28th August, 1988. It is not in dispute that the petitioners are continuing in service as this court has protected them by grant of interim relief.

3. Learned counsel for the respondents submit that all the three petitioners have been selected for the post of Junior Clerk in the third selection and their services have already been regularised, and as such, these petitions have become infructuous.

4. Learned counsel for the petitioners, on the other hand, submits that these petitions have not become infructuous for the reason that the petitioners prayed for declaration that they were initially regularly appointed.

5. However, the fact remains that the petitioners have been selected for the posts and their services have been regularised. So to that extent, these writ petitions now do not survive.

6. Learned counsel for the petitioners claim that their past services have to be counted as regular services for all purposes including of seniority.

7. However, this claim of the petitioners cannot be granted at this stage for the reason that in case the same is accepted then those Junior Clerks who have been selected earlier to the petitioners will become junior and behind their back no such decision can be given otherwise it will be in violation of the principles of natural justice.

8. Now the petitioners' services have been regularised and in case they have still some grievance

and they feel that their services should have been taken to be regular from the date of their initial appointments, it is open to them to file a detailed representation to the respondent No.1 and in case, such a representation is filed then the same may be decided in accordance with law. It is not gainsay that the respondent No.1 while deciding the representation of the petitioners shall take care that any order passed in favour of the petitioners may not adversely affect the rights of the persons who are not before it. So it is advisable that whatever decision taken on the representation of the petitioners in favour of the petitioners, has to be taken only after giving an opportunity of personal hearing to the persons who may adversely be affected by the same.

9. Subject to the aforesaid directions, all these special civil applications and Rule therein stand disposed of with no order as to costs.

zgs/-